

**ORDINANCE NO. 1
SERIES OF 2017**

**AN ORDINANCE OF THE BOARD OF TRUSTEES
OF THE TOWN OF CARBONDALE, COLORADO
APPROVING ZONING CHANGES AND USE-SPECIFIC STANDARDS TO
ALLOW DRIVE-THROUGH BANKS AND PHARMACIES TO BE PERMITTED
AS A SPECIAL USE WITHIN THE COMMERCIAL RETAIL WHOLESALE
(CRW) ZONE DISTRICT**

WHEREAS, pursuant to Section 2.4.1.C.3.b of Chapter 17.02 of the Carbondale Municipal Code, the Town of Carbondale Planning Director initiated an application to amend Chapters 17.04 (Use Regulations) and 17.08 (Definitions) of the Municipal Code so that drive-through banks and pharmacies can be authorized as a special use the Commercial Retail Wholesale (CRW) Zone District to allow, all as more specifically set forth in the amended zoning code provisions attached hereto as **Exhibit A**; and

WHEREAS, whereas, after required public notices, the Planning and Zoning Commission held a public hearing on this application on December 8, 2016, after which the Planning and Zoning Commission recommended to the Board of Trustees that this application be approved, with conditions; and

WHEREAS, after all required public notices, the Board of Trustees held a public hearing on this matter on January 10, 2017 and heard from Town staff and any other interested parties; and

WHEREAS, pursuant to Section 2.4.1.C.3.b of Chapter 17.02 of the Municipal Code, the Board of Trustees finds and determines that:


1. These proposed amendments will promote the public health, safety, and general welfare;
2. These proposed amendments are consistent with the Comprehensive Plan and the stated purposes of the Unified Development Code; and
3. These proposed amendments are necessary or desirable because of changing conditions, new planning concepts, or other social or economic conditions.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF CARBONDALE, COLORADO:

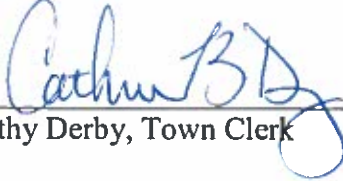
The revised zone district text set forth on **Exhibit A** is hereby adopted and approved, and Chapters 17.04 (Use Regulations) and 17.08 (Definitions) of the Carbondale Municipal Code shall be deemed amended accordingly upon the date that this Ordinance becomes effective,.

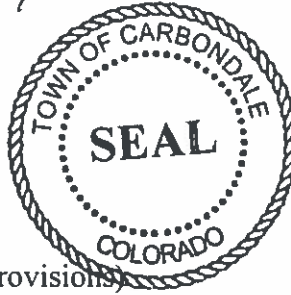
INTRODUCED, READ AND PASSED this 10th day of January, 2017.

THE TOWN OF CARBONDALE

By: 
Dan Richardson, Mayor

ATTEST:


Cathy Derby, Town Clerk



Attachment (Exhibit A—revised zoning code provisions)

POSTED: _____
PUBLISHED: _____
EFFECTIVE: _____

D. Bank, Financial Institution1. C/T and CRW Districts

Drive-throughs are only permitted with approval of a special use permit. All other drive-throughs, with the exception of drive through pharmacies in the CRW zone district, are prohibited.

HCC and MU Districts

Drive-throughs are prohibited.

E. Bar, Tavern, or Lounge

1. Generally

- a. No retail licensee for on-premises consumption of liquor shall permit any person to appear on such licensed premises displaying specified anatomical areas or non-live performances or entertainment exhibiting specified sexual activities, as defined in Section 9.26.010. Any person in violation of this provision shall be guilty of an offense against the Town, punishable as provided in Section 9.26.360.
- b. If the owner, operator, licensee, lessor, lessee, manager, employee, or any other person participating in the operation of a commercial establishment located within the Town at which alcoholic beverages are offered for sale for consumption on the premises shall be convicted of any of the offenses in this subsection, then the Board of Trustees may take appropriate action, including but not limited to, suspension and revocation of the establishment's respective liquor license.

2. C/T and MU Districts

Bars, taverns, or lounges with dancing or entertainment require a conditional use permit.

F. Bed and Breakfast Establishments

Bed and breakfast establishments shall comply with the following standards:

1. Generally

- a. The maximum number of bedrooms for any bed and breakfast establishment shall be five.
- b. The number of proposed bedrooms shall be provided during the pre-application meeting for bed and breakfast establishments.
- c. A proprietor or manager shall reside on the premises.
- d. Guest rooms shall be located only in the principal building on a property or lot.
- e. The kitchen shall not be altered to become a commercial kitchen within the meaning of the currently adopted Building Code.
- f. Meals shall be served only to permanent residents and overnight guests.
- g. No food catering operations shall be based on the bed and breakfast premises.

P. Professional or Administrative Office

1. CRW District
 - a. Office space shall only be on the second or third floor of any structure;
 - b. Ground-floor office space shall require a conditional use permit.
 - c. Office space shall be limited to 20 percent of the gross leasable area of other allowed uses on the site.
2. I District
Office space shall be limited to 20 percent of the gross leasable area of other allowed uses on the site.
3. PF District
Only government or quasi-public agency offices are permitted.

Q. Restaurant, with Outdoor Dining Facility

1. Pedestrian Access
 - a. Outdoor dining facilities shall not block pedestrian access to any public or private door.
 - b. Outdoor dining facilities located on a sidewalk shall leave a minimum width of four feet sidewalk for unobstructed pedestrian traffic.
2. Vehicular Access
Outdoor dining facilities shall not interfere with vehicular access.
3. Parking Calculation
The square footage and/or number of seats within an outdoor dining facility shall be included in the calculation for required parking.

R. Retail, General, 10,000 ssf or less**1. CRW District**

Drive-through pharmacies (non-marijuana) are only permitted with approval of a special use permit. All other drive-throughs, with the exception of drive-through banks in the CRW zone district, are prohibited.

2. HCC, CT and MU District

Drive-through pharmacies are prohibited.

R.S. Retail, General, Over 10,000 sf

See site and building design standards in Section 5.7.

1. CRW District

Drive-through pharmacies (non-marijuana) are only permitted with approval of a special use permit. All other drive-throughs, with the exception of drive-through banks in the CRW zone district, are prohibited.

2. HCC, CT and MU Districts

Drive-through pharmacies are prohibited.

S.T. Retail Marijuana

1. Generally

- a. Retail marijuana establishments shall only operate from a permanent and fixed location.
- b. Any applicant seeking land use approval for any retail marijuana establishment shall provide complete information about the use of the following:
 - i. Artificial lights;
 - ii. Utility needs with capability of existing facility and any plans to increase capacity;
 - iii. Waste products and all methods of disposal including soil;
 - iv. Ventilation system;
 - v. Odor control system;
 - vi. Necessary water including availability and disposal;
 - vii. Use of energy and renewable energy sources;
 - viii. Use of products and chemicals to enhance growth and control pests and weeds including application methods and disposal; and
 - ix. If in a multi-tenant building, evidence that a blower door test has been conducted, verifying no leakage between adjacent tenant spaces.
- c. To prevent potential adverse impacts to the Town of Carbondale, any special use permit shall only be granted upon showing of evidence that the proposed use will sufficiently control or minimize potential negative impacts, including but not limited to odor, waste water, harmful mold, and hazardous materials. Applicants shall provide a plan that includes a description of the ventilation system, lighting system, storage system, system for the control of marijuana odors for the premises, and any other information to demonstrate that the plan submitted adequately minimizes potential negative impacts that may affect adjacent properties and persons. This sub-section is to be construed to protect the public interest over the interests of a particular retail marijuana establishment.
- d. The Town of Carbondale Board of Trustees may impose additional criteria for the purposes of protecting public health, safety, and welfare.
- e. Retail marijuana stores are prohibited in certain locations, as set forth in Chapter 5.26 of the Municipal Code (e.g. within 500 feet of any school or day care; within 400 feet of any other retail marijuana store or medical marijuana center, located on Main Street between Snowmass Drive and 7th Street; and within 500 feet of any alcohol or drug treatment facility). In addition, any ordinance governing a planned unit development may prohibit or further restrict retail marijuana stores consistent with the Municipal Code.

4. Compliance with State and Local Retail Marijuana Laws

Any retail marijuana store, retail marijuana cultivation facility, retail marijuana products manufacturing facility, or retail marijuana testing facility shall comply with the requirements set forth in article XVIII of the Colorado Constitution, the Colorado Retail Marijuana Code, § 12-43.4-103, C.R.S., as amended, and Chapter 5.26 of this Municipal Code.

F.U. Sale of Produce and Plants Raised on Premises

1. Permitted Sales

The sale of produce and plants (not including retail or medical marijuana) shall only include those grown on-site.

2. Hours of Operation

The sale of produce and plants shall only be permitted between the hours of 7:00 a.m. and 7:00 p.m. any day of the week.

3. Structures

No permanent structures shall be erected for the sale of produce and plants.

4. Parking

At least two parking spaces shall be made available to accommodate customers. In residential districts, on-street parking shall constitute available parking.

5. Signage

Signage is subject to the sign standards in Section 5.9.

4.3.5. INDUSTRIAL USES**A. Any Industrial Use Involving Hazardous Materials**

Industrial uses involving hazardous materials as defined in Chapter 17.08: *Definitions*, shall require a special use permit.

B. Assembly, Fabrication, Manufacturing, and/or Testing

1. Generally

When a special use permit is required, the following additional information may be required, either on the special use permit application form or as specified at the pre-application meeting:

- a. Building plans detailed enough to show all activities, including production areas, storage facilities, retail area, etc.;
- b. Map showing adjoining areas and zoning districts; and
- c. List and location of major pieces of equipment or areas of production that are not retail in nature, such as painting booths, arc welders, etc.

2. Special Use Permit Criteria

- a. The special use shall be located in a structure or area that is compatible with surrounding properties. The special use shall be adequately separated from adjoining uses according to this Code and the currently adopted Building Code.

4.2. Table of Allowed Uses
 4.2.5. Table of Allowed Uses
 4.2.1.F. Use-Specific Standards

CHAPTER 17.04: USE REGULATIONS

Table 4.2-1: Allowed Uses – Town of Carbondale		Use-Specific Standards																
Use Category	Use Type	Residential Districts				Commercial and Mixed-Use Districts						Other Non-Residential Districts						
		AG	OTR	R/LD	R/MD	R/HD	CT	CRW	HCC	MU	O	T	PF	I				
Offices, Business, and Professional Services	Optional medical marijuana cultivation premises														S			4.3.4.N
	Retail marijuana cultivation facility														S			4.3.4.S4.3.4.R
	Retail marijuana products manufacturing facility														S			4.3.4.S4.3.4.R
	Retail marijuana store						P	P	P	P					S			4.3.4.S4.3.4.R
	Retail marijuana testing facility						C	C	C	C					C			4.3.4.S4.3.4.R
Personal Services	Bank, financial institution						P	P	P	P								4.3.4.D
	Mail or package delivery service						P	P	C	P								
	Printing shop, blueprinting, and copies						P	P	P	P								
	Professional, government, or administrative office						P	P	P	P								4.3.4.P
	Commercial laundry and dry cleaning																	
Recreation and Entertainment, Indoor	Dry cleaning pick-up						P	P	P	P								4.3.4.J
	Personal service, general						P	P	P	P								
	Self-service laundromat						P	P	P	P								
	Health club						P	P	P	P								
	Indoor recreational facility						P	P	P	P								4.3.4.K
Recreation and Entertainment, Outdoor	Theater																	
	Campground and RV park																	4.3.4.H
	Commercial outdoor facility																	
	Building materials, feed, supply store						S	S	S	S					S			4.3.4.I
	Convenience store, without fuel						S	P		S								
Retail Sales	Grocery store						P	P	P	P								
	Liquor store						P	P	P	P								4.3.4.M
	Non-bulk storage/sale of Liquefied Petroleum Gas (LPG) – less than 2,000 gallons						C	C		C								4.3.4.O
	Retail, general, 10,000 sf or less						P	P	P	P								4.3.4.R
	Retail, general, over 10,000 sf						P	P	S	S								4.3.4.S4.3.4.RS
Vehicles and	Wholesale material sales																	
	Automotive fuel sales						S	S		S								4.3.4.C

masonry, stone, brick, tile, concrete, or plaster. Natural growth barriers such as hedges are not considered fences or walls.

Finished Grade

The final elevation of the ground surface after completion of authorized development and associated man-made alterations of the ground surface such as grading, grubbing, fillings, or excavating.

Fixture

An assembly that holds the lamp (bulb) in a lighting system. It includes the elements designed to give light output control, such as a reflector (mirror) or refractor (lens), the ballast, housing, and the attachment parts.

Fixture Height or Mounting Height

Height of the fixture shall be the vertical distance from the ground or paved surface, whichever is lower, directly below the centerline of the fixture to the lowest direct light emitting part of the fixture.

Flammable Liquid

A liquid that has a flash point below 100 degrees Fahrenheit and includes all forms of alcohol and ethanol.

Food-Based Extraction

Producing marijuana concentrate by extracting cannabinoids from marijuana through the use of propylene, glycol, glycerin, butter, olive oil, or other typical cooking fats. Except as otherwise provided in 4.3.4.T4.3.4.T4.3.4.S, flammable liquids may not be used in food-based extraction.

Forecourt

A courtyard or open space area located in front of a building or group of buildings that is intended as an entry feature or as a way to buffer the building entrance from street traffic.

Floodplain Designation and Flood Damage Prevention

See Section 3.5.3.A.

Floor Area

The sum of the gross area for each of a building's stories under roof measured from the exterior limits or faces of the building.

Floor Area Ratio

A number or percentage, derived by dividing the gross floor area of the buildings on any lot by the lot area.